

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE LIFETRADE LITIGATION:

This Document Relates to: ALL ACTIONS

17-CV-2987 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

Before the Court is a motion to dismiss the claims of Plaintiffs Maria Cristina Villanueva and Osvaldo Jose Barrionuevo, both deceased, pursuant to Fed. Rule of Civil Procedure 25, filed by Defendant S&P Global Inc. (“S&P”) and Robert A. Ruppenthal, as Administrator of the Estate of Roy G. Smith (the “Estate” and with S&P, the “Defendants”).

Under the Federal Rules, if a motion to substitute a proper party for a deceased plaintiff “is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1). Plaintiffs’ counsel filed a statement noting the death of Barrionuevo on November 4, 2021, and of Villanueva on November 17, 2021. Thus, the respective deadlines for a successor or representative for each Plaintiff to file a motion for substitution were February 2, 2022, and February 15, 2022. No such motions were filed by deadline or have been filed since. (*See also* ECF No. 613, ordering Plaintiffs to advise the court within 30 days of December 27, 2021 as to the appointment of an executor/representative for the estate and to move to substitute that party for Barrionuevo). Nor did Plaintiffs request an extension before the deadline expired. Plaintiffs argue that the Court should overlook their failure to adhere to this deadline as excusable neglect. (*See* ECF No. 714.) This argument is unpersuasive, as Plaintiffs have failed to show excusable neglect.

Accordingly, Defendants’ motion to dismiss Plaintiffs Villanueva and Barrionuevo is hereby GRANTED.

Plaintiffs Maria Cristina Villanueva and Osvaldo Jose Barrionuevo are hereby dismissed from this action. The Clerk of Court is directed to close the motion at Docket No. 700.

SO ORDERED.

Dated: March 20, 2023
New York, New York



J. PAUL OETKEN
United States District Judge